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Letter dated 23 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached supplementary report of the Kingdom of Bhutan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

06-59025 (E) 201106

Annex

Letter dated 19 October 2006 from the Permanent Representative of Bhutan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 26 April 2006, I am forwarding herewith a supplementary report submitted by the Royal Government of Bhutan concerning the implementation of the provisions of resolution 1373 (2001) (see enclosure).

(Signed) Dato Penjo
Ambassador
Permanent Representative

Enclosure*

Security Council resolution 1373 (2001): supplementary report submitted by the Kingdom of Bhutan

Operative paragraph 1:

- **Could Bhutan please indicate how it complies with and proposes to comply with the requirements of each of the sub-paragraphs of paragraph 1? Please provide answers for each of the sub-paragraphs, with a description of the relevant clauses of existing or proposed laws and ensure compliance.**

Sub-paragraph (a)

Pursuant to Security Council Resolution 1373, the Kingdom of Bhutan signed the International Convention for the Suppression of the Financing of Terrorism on 14th November 2001 and ratified it on 22nd March 2004.

The Royal Monetary Authority (Central Bank) supervises and regulates the activities in the financial sector as per the relevant laws and regulations in effect in the Kingdom of Bhutan. These are the Royal Monetary Authority Act 1982, Financial Institution Act 1992, Foreign Exchange Regulations 1997and the Prudential Regulations 2002. The Royal Monetary Authority can issue freeze orders and directives to the financial institutions, which are binding.

The Prudential Regulations 2002 issued by the Royal Monetary Authority of Bhutan (Central bank) provides a broad framework for quasi-judicial responsibilities that financial authorities have to adhere to and comply with at the minimum. These regulations incorporate the minimum standards of 25 Core Principles for Effective Banking Supervision, which is being promulgated by the Basel Committee for Banking Supervision, BIS. Section 18 of the Regulations deals with money laundering and in order to prevent such activities, financial institutions must implement measures such as:

- *Know your customer policy*
- *Customer transaction profile*
- *Information on cash transaction*
- *Information on foreign currency transaction*

Under Article 59 of the Financial Institutions Act, 1992 financial institutions in the country are required to reveal to the Royal Monetary Authority any evidence of serious criminal activity either in the Kingdom or abroad which it suspects is associated with the use of a bank account or its proceeds, or if it suspects that investments are the products of a serious criminal activity either in the Kingdom or abroad.

The Royal Monetary Authority has issued notice to the financial institutions to draw attention to Article 59 of the Financial Institutions Act, 1992 and report to the Royal Monetary Authority any illicit financial transaction related to individuals and entities contained in the 1267 Committee List.

* Annexes are on file with the Secretariat and are available for consultation.

Sub-paragraph (b)

As a state policy, terrorism in all forms is denounced by Bhutan and it is made unlawful through our legislation.

Chapter 23 of the Bhutan Penal Code 2004 deals with terrorism and related offenses. The offense of terrorism is a felony of the first degree with minimum sentencing of 15 years to life imprisonment.

Money Laundering is a penal offence under the Bhutanese law. The Penal Code of Bhutan 2004 and the Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005 have provisions to deal with money laundering and other related issues.

Section 29 of the Civil and Criminal Procedure Code of Bhutan 2001 enables the Royal Courts of Justice to apply the provisions of international conventions, covenants, protocols and treaties that have been duly acceded to by the Royal Government and ratified by the National Assembly.

Sub-paragraph (c)

The Ministry of Finance, through the Royal Monetary Authority (Central Bank), has directed all financial institutions within the country to immediately freeze any accounts and assets if detected to be related to individuals and entities contained in the List. Financial institutions have also been advised to remain vigilant against any illicit financial transaction, which should be reported to the Royal Monetary Authority (RMA) for further investigation. Till date no specific reports have been received from the financial institutions on such matters.

Operative Paragraph 2

Sub-paragraph (a):

- Please describe the legal provisions relating to the sale and possession of weapons within and from the territory of Bhutan.

Firearms and Ammunition Act 1990 regulates the importation, possession and handling of firearms and ammunition. The possession of firearms is limited and an arms license can only be issued after thorough verification. The Act was further amended in 2001 in keeping with Security Council resolutions.

The Bhutan Penal Code 2004 has provisions to deal with illegal manufacture, possession and sale of firearms, ammunition, explosives or a lethal weapon. An offence of illegally manufacturing a weapon of mass destruction is punishable for life imprisonment.

Sub-paragraph 2 (b)

- **Please explain how the requirements of this sub-paragraph will be fulfilled particularly in regard to exchange of information on terrorist matters with other states.**

Information among South Asian countries is exchanged through the SAARC Terrorist Offences Monitoring Desk in Colombo, Sri Lanka, which was set up to coordinate activities under the SAARC Regional Convention for the Suppression of Terrorism.

Information on terrorist activities and other related issues are also shared amongst the BIMSTEC member countries (Bangladesh, Myanmar, Thailand, Nepal, Bhutan, Sri Lanka and India) through periodic intelligence sharing meetings on combating the financing of terrorism, legal and law enforcement issues, prevention of illicit trafficking in narcotic drugs, psychotropic substances and precursor chemicals.

The Kingdom of Bhutan became a member of the International Criminal Police Organization (INTERPOL) in September 2005. Consequently, the Royal Bhutan Police has set up a National Central Bureau-INTERPOL (NCB-Interpol) to maintain cooperation/coordination with INTERPOL. One of the aims and objectives of the NCB-Interpol is to create a National Criminal Database for the purpose of sharing information amongst member states in combating transnational crime including terrorism.

Bhutan is connected to the INTERPOL Global Police Communications system i.e. the I-24/7 system, which allows all member states to access crucial data or exchange messages instantly to investigate cross border crime or seek the arrest of international fugitives.

Proposals are also underway to setup a computerized Automated Border Control System (ABMS) among the various law enforcement and border control agencies to facilitate cross border security through information sharing. However, the implementation of this will largely depend on sufficient funds being available.

Sub-paragraph 2 (c)

- **Please describe the legal provisions that regulate movement of persons into and out of Bhutan. Are there any legal provisions that deny safe haven to those who finance, plan, facilitate or carry out terrorist acts?**

The entry and exit of all foreign nationals is regulated under the provisions of the Visa Regulations 1990 and the Immigration Handbook/Immigration Rules 1995. All foreign nationals must possess (a) proper identity documents/travel documents and (b) obtain prior visa clearance before arrival in Bhutan. The screening process starts when the visa is being applied for and not just when the applicant enters Bhutan. The details of the applicants are cross-checked against the movement alert list maintained by the border control authorities before entry is permitted.

The following domestic legislations provide the legislative framework to deal with acts of terrorism and activities related to it:

a) *The Enabling Act for the SAARC Regional Convention on Suppression of Terrorism 1991*

b) *The Extradition Act 1991. This was enacted to enable the extradition of persons who had committed serious crimes of extraditable nature and to implement the SAARC Convention on Suppression of Terrorism 1991.*
c) *The National Security Act 1992*
d) *Financial Institutions Act 1992*
e) *Prudential Regulation 2002*
f) *Bhutan Penal Code 2004*
g) *The Civil & Criminal Procedure Code of Bhutan 2001*
h) *The Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005.*

Bhutan is also a state party to the following international counter-terrorism conventions:

a) *International Convention against the Taking of Hostages*
b) *Convention on the Prevention and Punishment of Crime against International Protected Persons including Diplomatic Agents*
c) *Convention on Offences and Certain Other Acts Committed on Board Aircraft*
d) *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*
e) *Convention for the Suppression of Unlawful Seizure of Aircraft*
f) *International Convention for the Suppression of the Financing of Terrorism*
g) *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation*
h) *Convention on the Marking of Plastic Explosives for the Purpose of Detection*

In addition Bhutan is a party to the SAARC Regional Convention for the Suppression of Terrorism and the Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism.

Under domestic laws all international instruments duly acceded to by Bhutan are self-enacting. Please refer to answer provided for in OP/1(b).

Sub-paragraph 2 (d)

- **Please explain how Bhutan prevents its territory from being used to carry out terrorist acts outside its territory.**

Bhutan engaged in military operations in the winter of 2003 to flush out militants from the neighboring Indian states of Assam and West Bengal who were illegally camped in the country. To prevent the sneaking of terrorist elements into Bhutan the security forces and forestry personnel conduct regular patrolling of the border areas.

Sub-paragraph 2 (e)

- **Please outline the particular clauses of the National Security Act of 1992 that criminalize the various acts that are required by the Resolution to be criminalized. Please also provide information on the penalties that apply to the various offences.**

National Security Act 1992

Section 8: *Whoever by words, either spoken or written, or by any other means whatsoever, creates misunderstanding or hostility between the government and people of Bhutan and the Government and people*

of any foreign country with which Bhutan has peaceful and friendly relations, or attempts to create such misunderstanding or hostility, shall be punished with imprisonment which may extend to five years.

Section 9 (a): Whoever by words either spoken or written, or by other means whatsoever, promotes or attempts to promote, on grounds of religion, race, language, caste or community, or on any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes and communities, or

9 (b): Whoever commits any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities, and which disturbs or is likely to disturb the public tranquility.

9 (c): Shall be punished with imprisonment, which may extend to three years.

Section 329 of the Penal Code of Bhutan 2004 provides that a defendant shall be guilty of the offence of terrorism, if the defendant:

(a) With intent to subvert the state, uses or assists, recruits, or trains another person to use a bomb, dynamite, fire-arm, or other lethal weapons for terrorist activities; or
(b) Participates in financing, planning, or preparation of terrorist acts or in supporting terrorist acts directly; or
(c) Engages in a violent act or insurrection against Bhutan that is designed primarily to generate fear in a community or a substantial section of the society.

Section 330: The offence of terrorism shall be a felony of the first degree i.e. minimum of 15 years to life imprisonment.

Section 331(b): A defendant shall be guilty of sedition if the defendant creates animosity between Bhutan and its people or Bhutan and the government of a foreign country with which Bhutan has peaceful and friendly relations.

Section 332: The offence of sedition shall be a felony of the third degree i.e. minimum of 5 to 9 years of imprisonment.

Sub-paragraph 2 (f)

- **Please describe the procedure adopted by Bhutan to provide assistance to other countries in connection with criminal investigation or criminal proceedings.**

The Extradition Act of 1991 provides for the legal framework in facilitating criminal investigation and criminal proceedings with regard to the extradition process of a fugitive offender.

Please also refer to answer provided for in OP/2 (b).

Sub-paragraph 2 (g)

- **Please provide a description of the mechanism for inter-agency cooperation amongst the agencies responsible for narcotics control, financial tracking and border control.**

Under the Narcotics Drugs, Psychotropic Substances and Substance Abuse Act 2005 the Bhutan Narcotics Control Board has been established which provides for proper coordination of activities and sharing or information amongst the concerned agencies responsible for narcotics control and other related crimes.

The Royal Monetary Authority (Central Bank) supervises and regulates the activities in the financial sector as per the relevant laws and regulations in effect in the Kingdom of Bhutan. Under Article 59 of the Financial Institutions Act, 1992 financial institutions in the country are required to reveal to the Royal Monetary Authority any evidence of serious criminal activity either in the Kingdom or abroad which it suspects is associated with the use of a bank account or its proceeds, or if it suspects that investments are the products of a serious criminal activity either in the Kingdom or abroad. Under Section 19 of the Prudential Regulation 2002, which deals with on-site examination of financial institutions the Financial Institutions Supervision Division of the Royal Monetary Authority, as part of its vigilance and surveillance system, conducts frequent on-site visits of the financial institutions to specifically check and verify their financial operations.

In pursuant to its efforts in strengthening the anti-money laundering framework, the Royal Monetary Authority under the assistance from the Asian Development Bank is in the process of establishing a Financial Intelligence Unit (FIU), which would include all relevant agencies in developing a comprehensive national anti-money laundering program in the country. The FIU could bring together the law enforcement agencies, financial regulatory authorities and judicial/prosecutorial authorities which would jointly work towards fighting money laundering through adoption and implementation of the Financial Action task Force (FATF) anti-money laundering standards in accordance with existing infrastructure and legal framework in the country.

The Department of Immigration under the Ministry of Home & Cultural and the Royal Bhutan Police are responsible for security with regard to border control. Since August 2005 a Coordination Committee comprising of various border control agencies has also been established to share information and to set up an Automated Border Management System (ABMS). The ABMS Coordination Committee meets on a monthly basis. However, as indicated under OP/2(b) the implementation of an ABMS will largely depend on sufficient funds being available.

Sub-paragraphs 3 (a), (b) and (c)

- **Please describe the arrangements if any, that Bhutan has in place to enable it to share with other countries operational information in regard to terrorists.**

Please refer to the answer provided for in OP/2 (b).

Sub-paragraph 3 (d)

- **The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Bhutan in:**

  - **Becoming a party to the instruments to which it is not yet a party; and**

Bhutan is a state party to 8 of the13 international counter-terrorism conventions as indicated under OP/2(c). The Royal Government is considering submission of the International Convention for the Suppression of Terrorist Bombing to the winter session (2006) of the National Assembly for accession.

The Royal Government is also studying the four remaining counter-terrorism conventions i.e. the International Convention for the Suppression of Acts of Nuclear Terrorism, Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and the Convention on the Physical Protection of Nuclear Material. While no time frame has been set, the Royal Government hopes to accede to these conventions soon.

  - **Enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

Under domestic laws all international instruments duly acceded to by Bhutan are self-enacting. Please refer to answer provide for in OP/1(b).

Have the offences set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties concluded by Bhutan with other countries?

The Kingdom of Bhutan is a State Party to the (i) SAARC Regional Convention for the Suppression of Terrorism (ii) the SAARC Convention on Narcotic Drugs and Psychotropic Substances and (iii) the Additional Protocol to the SAARC Regional Convention for the Suppression of Terrorism. Other state parties to the two Conventions and Protocol include Bangladesh, Nepal, Sri Lanka, India, Pakistan and Maldives. These instruments provide a legal framework for the SAARC member countries in matters of prosecution, extradition and mutual legal assistance amongst others.

Sub-paragraph 3 (g)

Please indicate whether there is an Extradition act or whether extradition is subject to bilateral treaties.

The Extradition Act of 1991 provides for the legislative framework to deal with crimes of extraditable nature. Article 1(d) of the Act states that "This Act may also apply to non-treaty state where the Royal Government of Bhutan considers it expedient to surrender the suspected fugitive offender to that state not withstanding that there is no extradition treaty with that state, subject to modifications, exceptions, conditions and qualifications, if any, as may be made by the Royal Government of Bhutan."

Are claims of political motivation recognized as grounds for refusing requests for extradition?

Yes, under the Extradition Act of 1991 if it is established that the "fugitive offender is deemed to have committed a political offence on the basis of the evidence received from the requesting country or on the basis of evidence produced by the fugitive offender during the course of the investigation by the Court or if it is found that the fugitive offender is being demanded for punishment on political offence".

Under the SAARC Regional Convention for the Suppression of Terrorism and the Additional Protocol to the Convention, a number of internationally defined terrorist offences for the purpose of extradition are not regarded as political offences. These include:

a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.
b) An offence within the scope of the Convention for the suppression of Unlawful Acts against the Safety of civil Aviation, signed at Montreal on 23 September 1971.
c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, singed at New York on14 December 1973.
d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition.
e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property.
f) An attempt to conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counseling the commission of such an offence or participating as an accomplice in the offences so described.

Under Section 29 of the Civil and Criminal Procedure Code of the Bhutan 2001 the "Royal Courts of Justice shall apply the provisions of international conventions, covenants, protocols and treaties that have been duly acceded to by the Royal Government and ratified by the National Assembly".

Paragraph 4

Has Bhutan addressed any of the concerns expressed in paragraph 4 of the resolution?

Some of the measures that Bhutan has taken since 2002 to address these concerns include:

a) *Becoming a signatory to the (i) International Convention for the Suppression of the Financing of Terrorism (ii) Convention on the Marking of Plastic Explosives for the Purpose of Detection (iii) Single Convention on Narcotic Drugs (iv) Convention on Psychotropic Substances (v) Chemical Weapons Convention (vi) Additional Protocol to the SAARC Regional Convention for the Suppression of Terrorism.*

b) *Enacting (i) The Prudential Regulations 2002 (ii) The Bhutan Penal Code 2004 which has provisions to deal with issues related to money laundering, terrorism and related offences and (ii) The Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005 which among others has provisions to deal with drug related money-laundering and international cooperation.*

c) *Establishing (i) the Bhutan Narcotics Control Board which is chaired by a Cabinet Minister and (ii) the Coordination Committee for the Automated Border Management System (ABMS) which is chaired by the Secretary of the Ministry of Home & Cultural Affairs.*

d) *Becoming a member of INTERPOL in order to share information and combat transnational crime.*

Other matters

Could Bhutan please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation, and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

An organizational chart of the Royal Government's administrative machinery is attached as Annexure I.

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Letter dated 23 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report of Uzbekistan submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as the responses of Uzbekistan to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 19 October 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to submit herewith the fifth report of the Government of the Republic of Uzbekistan which includes responses to those comments and questions of the Counter-Terrorism Committee contained in your letter dated 13 February 2006 (see enclosure).

(*Signed*) Alisher **Vohidov**
Ambassador
Permanent Representative

Enclosure*

Fifth report of Uzbekistan on the implementation of Security Council resolution 1373 (2001) and responses to Security Council resolution 1624 (2005)

[Original: Russian]

1. Implementation measures

1.1 In conjunction with the ministries and departments concerned, the Government of the Republic of Uzbekistan is currently carrying out measures to implement Act No. 661-II of 26 August 2004 on combating the legalization of income derived from criminal activity and on the financing of terrorism and resolution No. 583-95 of the Cabinet of Ministers on measures to improve the system for monitoring sources of capital formation in the financial system.

Pursuant to the resolution of the President of the Republic dated 21 April 2006 on measures to intensify the fight against financial, economic and tax crimes involving the legalization of illegal income, the Department for Combating Tax and Currency Crimes of the Office of the Procurator-General became the Department for Combating Tax and Currency Crimes and the Legalization of Illegal Income.

This Department is defined as the agency specifically empowered to combat tax and currency crimes and the legalization (laundering) of illegal income and has been invested with additional functions, including the detection and suppression of crimes and other offences connected with the legalization of income derived from criminal activity or with the financing of terrorism and the conduct of analyses and investigations to identify possible channels and mechanisms of such criminal activity.

It is fully empowered to take action to combat the legalization of income derived from criminal activity (operating as a financial intelligence unit).

This specially empowered agency has been assigned the functions of a financial intelligence unit in full compliance with the recommendations of international organizations and the experience of foreign countries, subject to the limitations arising from special features of Uzbekistan's legislation and the functioning of its financial system.

The following are the Department's main tasks:

- Prompt detection, suppression and prevention of tax and currency crimes and other offences, monitoring the implementation of the legislation on combating the legalization of income derived from criminal activity and on the financing of terrorism;
- Attending to the implementation of the State's taxation policies and the expansion of the tax base, ensuring the comprehensiveness of the coverage of the tax system and documentation of taxpayers, and the prompt detection and elimination of possible channels and mechanisms of tax evasion and avoidance, methods of setting up a shadow economy and cases of corruption;

* Annexes are on file with the Secretariat and are available for consultation.

- Monitoring the comprehensiveness and accuracy of the reporting and accounting of currency transactions, prevention of illegal outflows of funds and the import and export of foreign currencies and their unlawful trading, as well as other currency-exchange offences;

- Creation of a modern system of financial intelligence, organization and conduct of the monitoring of financial and property transactions in order to identify possible channels and mechanisms for the legalization of income obtained by criminal means and for the financing of terrorism, and prompt notification of detected offences to the relevant units of the law-enforcement agencies with a view to criminal prosecution or action under administrative law;

- Creation and maintenance of a single database on detected tax, currency and financial crimes and other offences and transactions involving funds and other property subject to legal controls;

- Cooperation and exchange of information with the competent agencies of foreign States, international specialized agencies and other organizations working in the field of currency-exchange regulation, including information on matters connected with combating the legalization (laundering) of income obtained by criminal means and on the financing of terrorism in accordance with Uzbekistan's international obligations and treaties;

- Conduct of widespread education and prevention activities on questions of taxation policy and currency-exchange regulation, and prevention of violations of the legislation on combating the legalization of income derived from criminal activity.

In addition, pursuant to resolution No. 583-95 of the Cabinet of Ministers dated 16 December 2004 the Central Bank established a special department to monitor sources of the formation of the company capital of commercial banks, credit unions and pawnshops. Information on suspicious sources of capital is transmitted to the law-enforcement agencies.

Sources of capital formation in insurance companies and organizations operating lotteries and other games of chance are monitored by units of the Ministry of Finance.

It should also be noted that on 16 December 2005 Uzbekistan became a full member of the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG). Representatives of Uzbekistan take an active part in EAG meetings and workshops.

1.2 See question 1.1.

1.3 Article 290 (Attachment of property) of the Code of Criminal Procedure invests preliminary inquiry agents, investigators and the courts with powers to attach the property of suspects, accused persons, defendants and civil respondents for purposes of the enforcement of court decisions in civil claims and other cases involving seizure of property.

The third part of this article provides for the attachment of residential and non-residential premises, regardless of the form of ownership, if they have been used for the commission of particularly serious crimes, including terrorist acts.

However, although the concept of confiscation of property is no longer valid in Uzbek legislation, attached property, including property belonging to organizations acknowledged to be terrorist organizations or organizations financing terrorist activity or to persons participating in the activities of such organizations may be converted to State ownership by verdict or decision of a court as an object used in the crime in the same way as the resources and means used directly for the commission of the crime.

Article 211 of the Code of Criminal Procedure contains a list of items of material evidence whose disposition must be indicated in the sentence, ruling or order. It provides in particular that weapons used in the crime belonging to a suspect, accused person or defendant shall be liable to confiscation and shall be handed over to the appropriate institution or destroyed.

The question of the conversion to State property of the assets of terrorist organizations is also regulated directly by article 29 (Liability of organizations in respect of terrorist activity) of Act No. 167-II of 15 December 2000 on combating terrorism, which states that when an organization is found to be the perpetrator of a terrorist activity it shall be officially declared a terrorist organization and shall be liable to dissolution by court decision. When an organization found to be terrorist is dissolved its property is confiscated and converted to State property. If an Uzbek court declares an international organization (or one of its divisions, branches or agencies) registered outside Uzbekistan to be a terrorist organization, the activity of the organization (or of the division, branch or agency) in Uzbek territory is prohibited, the organization (or the division, branch or agency) is dissolved, and the property belonging to the organization (or to the division, branch or agency) located in Uzbek territory is confiscated and converted to State property.

Articles 203 and 207 of the Code of Criminal Procedure are also applicable for purposes of the dissolution (by court decision) of a terrorist organization and the confiscation and conversion of its assets to State property.

Uzbek legislation prescribes a special procedure for suspending an owner's property rights following the detection of suspicious financial transactions having possible links to the legalization of illegal income or the financing of terrorism under Act No. 661-II of 26 August 2004 on combating the legalization of income derived from criminal activity and on the financing of terrorism, which entered into force on 1 January 2006.

Pursuant to this Act, organizations carrying out transactions with funds or other property subject to mandatory controls are required to suspend such transactions, except for the deposit of funds to the account of a legal or physical person, for two work days from the date on which the transaction in question is due to be completed and to notify the specially empowered State agency of the transaction on the day of its suspension. When there are sufficient grounds for suspicion, the specially empowered State agency may decide to suspend the transactions with funds or other property for a specified period.

1.4 Pursuant to article 15 of the Act on combating the legalization of income derived from criminal activity and on the financing of terrorism, organizations carrying out transactions with funds or other property subject to mandatory controls are required to submit to the specially empowered State agency information

(documents) concerning the conduct of such transactions on the day when they are due to be completed.

The following organizations carry out transactions with funds or other property:

- Banks, credit unions and other lending organizations;
- Investment funds, depositary institutions and other types of investment institution;
- Stock exchanges;
- Insurers;
- Organizations providing leasing or other financial services;
- Postal communication organizations;
- Pawnbrokers;
- Organizations operating lotteries and other games of chance;
- Notarial offices (notaries public).

The legislation does not at present provide for the imposition of any sanctions in respect of infringement of the rules on the submission of information about suspicious transactions to the specially empowered agency.

In addition, under article 155, paragraph 1, of the Criminal Code any activity designed to maintain the existence, functioning or financing of a terrorist organization, the preparation or commission of terrorist acts, the direct or indirect supply or collection of funds or resources or provision of other services for terrorist organizations or for persons facilitating or participation in terrorist activity shall be punishable by imprisonment for eight to ten years.

1.5 The criminal investigation of events which occurred in May 2005 in Andijan established that members of a criminal association unlawfully imported from Russia $200,000 earmarked for the Islamic Party of Turkestan, which was used to purchase weapons, ammunition, vehicles and other items. Part of this sum ($46,000) was seized during operational investigations and converted into State property by decision of the Supreme Court.

The Ministry of Internal Affairs has various pieces of information gathered by investigators concerning the start-up in Uzbekistan of a broad network of non-traditional and very covert channels and systems for the rapid transfer of funds: the Hawala transfer system is a typical example.

Since such unofficial systems constitute convenient and efficient channels for the movement of funds and may well serve the interests of criminal organizations for the purpose of legalizing illegal income and financing terrorist activity, the internal affairs agencies are giving special attention to the detection, suppression, dissolution and prevention of the operations of these systems in the context of the conduct of targeted operational investigations.

1.6 The Ministry of Internal Affairs of Uzbekistan is implementing a set of measures and activities aimed at detecting, suppressing and preventing activity on the territory of the Republic by various organizations and individuals with

destructive terrorist or extremist aims. In cases where organizations or individuals are criminally prosecuted for terrorist activity, under the laws of Uzbekistan measures must be taken to uncover their financial and other assets and expropriate them in order to stop the financing of further terrorist activity.

In accordance with article 2 (Main concepts) of Act No. 167-II of 15 December 2001 on combating terrorism, the financing and material and technical support of individuals carrying out terrorist acts are also forms of terrorist activity.

In cases where an organization pleads guilty to committing terrorist acts, including financing terrorist acts, it is liable under article 29 of Act No. 167-II on combating terrorism of 15 December 2001 (cited above, item 4).

Persons involved in terrorist activity, including the financing and material and technical support of individuals carrying out terrorist acts, are liable under the criminal law of Uzbekistan.

In accordance with the Code of Criminal Procedure of Uzbekistan, terrorist acts are crimes. The sanction in article 155, whereby terrorism is termed a particularly serious offence against the peace and security of humanity, imposes a penalty of imprisonment for up to 20 years or the death penalty, depending on the conditions and circumstances of the crime and the degree of the criminal's involvement and guilt.

As a result of measures implemented to suppress the activities of the Akromiilar, religious extremist organization, which carried out a number of terrorist acts and acts of sabotage in the Andijan region in May 2005, the Ministry of Internal Affairs has established that the leaders of this organization founded a number of legal entities — commercial and trading companies and enterprises, as part of a carefully developed plan — for the purpose of financing its activities.

The legal entities referred to, as well as the members of the Akromiilar movement, contributed 20 per cent of their profits every week to a common treasury, the fund of the baitulmal organization. The baitulmal fund had 411 million SUM in cash placed in it. Over 1 billion SUM were spent to acquire housing and business facilities (eateries, shops, workshops and equipment) for Akromiilar commercial organizations.

These facilities and funds, which were part of the commercial organizations belonging to Akromiilar had been seized as part of criminal proceedings and converted into State property pursuant to decisions by the criminal courts.

In accordance with Cabinet of Ministers decisions No. 356 of 4 February 2004 and No. 62-8s of 10 February 2004, funds (from international, foreign governmental and non-governmental organizations providing humanitarian aid, grants and technical assistance) transferred to non-governmental organizations are initially placed in the National Bank for Foreign Economic Activity and Asaka Bank block account. Following that, each time that funds are received the bank compiles relevant documentation on the recipient (charter, expense budget, business plan, etc.) which is sent to the bank's head office so that the legality of the operation can be examined. When the head office has completed its examination of the documents, it sends them to a special commission for consideration. After the special commission has considered each receipt of funds transfer, the commission's decision is sent in writing to the branch of the bank where the funds are being held

in the block account pending clarification. Only after a favourable decision by the special commission is the bank permitted to release the funds.

1.7 The training courses provided by the Organization for Security and Cooperation in Europe (OSCE) on reducing the numbers of lost and stolen travel and identification documents were ineffective. During the period 2004-2005, two courses were organized on this issue in Tashkent and Almaty. However, no practical decisions were taken as a result of these activities.

The issuance and exchange of passports for citizens of Uzbekistan are carried out in accordance with the Act on citizenship, Presidential decree No. UP-2240 of 26 February 1999 on improving the passport system and the Regulation on the passport system.

Under Presidential decree No. UP-2240, the issuance and exchange of passports for citizens and implementation of the passport system in the Republic are the responsibility of the internal affairs agencies. The procedures for the issuance and exchange of passports for citizens within the country are governed by the Instructions on the procedures for implementing the passport system which were confirmed by Order of the Minister of Internal Affairs of Uzbekistan No. 55 of 29 March 1999. The issuance and exchange of passports for citizens of Uzbekistan abroad are handled by Uzbekistan's diplomatic missions and consular offices abroad pursuant to the Instructions on procedures for the issuance and exchange of passports for citizens of Uzbekistan by the diplomatic missions and consular offices of the Republic of Uzbekistan abroad (regulation No. 726 of 11 May 1999).

The degree of liability for violations of the passport system, including the counterfeiting of passports, is established in the regulations and laws indicated as well as in the Criminal Code.

Article 227 of the Criminal Code sets forth the penalty of a fine ranging from 50 to 100 times the minimum monthly salary, corrective labour for a period of two to three years or imprisonment for up to three years for the acquisition, destruction, damage to or concealment of documents, stamps, seals, particularly important forms or other important personal documents, including passports.

Part I of article 228 of the Criminal Code provides for the penalty, a fine ranging from 50 to 100 times the minimum monthly salary, corrective labour for up to three years or detention for up to six months for the manufacture, counterfeiting or sale of official documents, manufacture of stamps, seals and forms, including passports and their sale. For repeat offences or dangerous recidivists as well as a conspiracy by a group of individuals, part II of this same article sets forth the penalty of corrective labour for a period of two to three years or imprisonment for three to five years.

Part III of this article provides for a penalty for knowingly manufacturing counterfeit documents, including passports consisting of a fine of 25 to 50 times the minimum monthly salary corrective labour for a period of up to two years or imprisonment for up to two years.

In order to enhance the effectiveness of efforts to detect and prevent the use of counterfeit and falsified documents and passports in the issuance of travel documents, training is systematically carried out with the cashiers of the UzZhelDorpass agency, the State railroad company Uzbekiston temir iullari, the

national airline agency Uzbekiston khavo iullari, and also with the employees of private firms which have agency ticket sale agreements with the national airline agency. These training courses are aimed at detecting passengers who intend to obtain airline tickets using counterfeit or invalid documents.

At the same time, the question of reformulating Cabinet of Ministers decision No. 8 of 6 January 1995 on approving the procedures for travel abroad by citizens of Uzbekistan is being considered jointly with the Ministry of Internal Affairs, as is the Ministry of Internal Affairs Instruction on procedures for extradition by the internal affairs agencies of Uzbekistan and entry into Uzbekistan of foreign citizens and stateless individuals, which is based on decision No. 8. There are plans to introduce a provision restricting the right to exit the country for individuals who have violated the rules for residence abroad and holding them criminally or administratively liable for a period of two years.

To prevent illegal border crossing and the use of counterfeit documents in the country, the Office of Entry, Exit and Citizenship in the Ministry of Internal Affairs regularly sends information on lost foreign passports to the National Security Council, indicating the series, numbers and name of the holders of the documents in question.

Since 2005, the Office of Entry, Exit and Citizenship, jointly with the national airline Uzbekiston khavo iullari and the State railway company Uzbekiston temir iullari, has been carrying out Presidential decree no. 2240 of 29 February 1999, on approving the regulations on the passport system.

On the basis of the decree, Ministry of Internal Affairs order No. 55 of 29 March 1999 was issued, under which local branches of the Office of Entry, Exit and Citizenship place official stamps confirming the place of residence registration in the passports of individuals purchasing airline and train tickets.

In order to establish the legal and organizational bases for a system to combat trafficking in and exploitation of human beings, and to protect the rights and freedoms of the individual, the National Security Council in 2003 sent a proposal to the Oliy Majlis to consider the question of amending and supplementing article 135 of the Criminal Code. Pursuant to this, citizens who have organized the transport of individuals abroad for the purpose of sexual and other exploitation may be subject to criminal prosecution without the mandatory qualifying indication of a crime "by fraudulent means".

A proposal has been made to amend article 135 of the Criminal Code in relation to aggravating circumstances, adding the following items:

– the use of physical or psychological force or threat of their use;

– confiscation of identification documents;

– limitation on freedom of movement;

by fraudulent means or abuse of trust.

1.8 The law enforcement agencies systematically carried out search operations to establish the presence of illegally stored firearms and ammunition, as well as operations to intercept them and prevent their illegal transport into Uzbekistan.

National law establishes liability for smuggling explosives, explosive devices, arms, firearms or ammunition (art. 246 of the Criminal Code); for the illegal seizure of firearms, ammunition, explosives and explosive devices (art. 247 of the Criminal Code); and also for the illegal possession of arms, ammunition, explosives or explosive devices (art. 248 of the Criminal Code).

Application of the above-mentioned penal provisions has had a positive effect on efforts to prevent illegal shipments of arms and ammunition and to keep them out of terrorists' hands.

Thus, in 2005, the number of crimes committed with the use of firearms fell by 22 per cent in comparison with 2004 (from 63 to 43).

In 2005, law enforcement agencies confiscated from terrorists a total of 256 firearms, 181 sub-machine guns, 59 pistols, 4 machine-guns, 1 grenade launcher, 11 rifles, 524 hunting rifles, and also 115 grenades, 172 explosive devices, 8,734 cartridges and 76 kilograms of gunpowder.

During the same period, several attempts to illegally transport arms and ammunition across the border of Uzbekistan were detected, resulting in the confiscation of 82 firearms, 328 cartridges and 39 kilograms of gunpowder (during the period January-February 2006, 16 firearms and 295 cartridges were confiscated).

1.9 The question of acceding to the International Convention for the Suppression of Acts of Nuclear Terrorism is currently under consideration by Uzbekistan's ministries and government agencies.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 The Republic of Uzbekistan has adopted a number of laws regulating counter-terrorism activities and stipulating liability for incitement to the commission of terrorist acts.

Under article 28 of the Uzbek Criminal Code, the organizers, instigators and accomplices of such acts are deemed to be perpetrators of and accessories to a criminal offence.

Article 30 of the Code stipulates that those organizers, instigators and accomplices incur liability under the same article of the Special Section of the Criminal Code as the perpetrator.

Added to which, article 2 of Act No. 167-II on combating terrorism, of 15 December 2001 states that incitement to terrorist acts is itself a form of terrorist activity.

In the event that an organization is deemed to have been guilty of terrorist acts, including incitement to commit terrorist acts, it will be held liable under article 29 of the Act on combating terrorism, pursuant to which the property of an organization deemed to be terrorist in nature is, upon dissolution of the organization, confiscated and converted into State property.

Individuals involved in terrorist acts, including the instigation of such acts, are held liable under article 155 of the Uzbek Criminal Code, which extends criminal liability for terrorism not only to persons directly involved in the commission of terrorist acts but also for activities designed to secure the continued existence,

operation and funding of terrorist organizations, the preparation and performance of terrorist acts, the direct or indirect provision of resources of any kind or the collection of such resources and the provision of other services to terrorist organizations or to persons abetting or participating in terrorist activities.

The above provisions apply equally to terrorist activities which consist in inciting others, on the grounds of extremism and religious intolerance, to the performance of terrorist acts against educational, cultural and religious establishments.

The voluntary refusal of an organizer, instigator or accomplice to perform such acts will release that person from liability for criminal complicity if he or she acted in good time to take every step within his or her power to prevent the offence.

2.2 Uzbekistan scrupulously abides by the terms of Security Council resolution 1566 (2004) of 8 October 2004, aimed at strengthening the campaign against terrorism and calling on States to deny safe haven to persons involved in such offences.

Under article 5 of the Act on combating terrorism, no foreign citizens or stateless persons involved in terrorist activities are permitted to enter Uzbekistan.

The same article also applies to persons guilty of inciting others to the commission of terrorist acts.

The Uzbek law-enforcement agencies are included in discussions to decide whether or not asylum should be granted to persons in respect of whom there are serious grounds, supported by reliable evidence, for considering them guilty of incitement to the commission of terrorist acts.

With the framework of the Shanghai Cooperation Organization (SCO), Uzbekistan is taking part in measures to detect and block the routes by which persons involved in terrorist, separatist and extremist activities enter the territory of SCO member States.

The outline for cooperation by member States of the Shanghai Cooperation Organization to counter terrorism, separatism and extremism, signed by Uzbekistan, is an expression of the will of those States to take all possible measures to combat such offences within the SCO countries and to deny safe haven to persons accused or suspected of their commission.

Paragraph 2

2.3 With a view to strengthening its own borders, Uzbekistan is actively cooperating with its neighbouring States, Kazakhstan, Kyrgyzstan and Tajikistan. Information is continuously exchanged between the border control agencies of the four countries about persons involved in terrorism. The details of all citizens crossing the border at the checkpoints are carefully checked against wanted person databases.

In addition, lists of the numbers of passports which have been reported lost or stolen from citizens of those countries are provided by the defence and law-enforcement authorities of the above-mentioned States. These passport numbers are also provided to the entry and exit checkpoints at border crossings to prevent them being used by criminals for the purpose of crossing the border.

A meeting of the Procurators-General of the member countries of the Shanghai Cooperation Organization was held in Moscow on 24 November 2005 to discuss, among other matters, ways of improving the facilities and procedures for collaboration by their law-enforcement agencies with their counterparts in other countries, including in the framework of cross-border cooperation to prevent terrorism, extremism, illegal migration and drug-smuggling.

In addition, Uzbekistan is taking part in the European Union's Border Management Programme for Central Asia (BOMCA), which is intended to improve the effectiveness of national border management in the States of Central Asia, with a view, in particular, to countering the problems outlined above.

On 21 April 2000, a regional-level agreement was signed between Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan on joint action to combat terrorism, political and religious extremism, transnational organized crime and other threats to the stability and security of the parties.

On 22 April 2004, an agreement on legal assistance and cooperation was signed by the Procurators-General of Kazakhstan and Uzbekistan.

Paragraph 3

2.4 The Act on combating terrorism, adopted by the Supreme Council of the Republic of Uzbekistan on 15 December 2000, has as its main objectives ensuring that individuals, society and the State are safe from terrorism, protecting the sovereignty and territorial integrity of the State, maintaining law and order and preserving national harmony.

Article 5 of the Act sets out a number of political, social, economic, legal and other preventive counter-terrorist measures to be taken by State authorities, local self-government bodies and voluntary associations, and also by enterprises, institutions and organizations.

Working together with religious leaders, the procuratorial authorities conduct regular meetings in educational, cultural and religious establishments to enlighten them about the inner workings and principal objectives of organizations involved in religious extremism and terrorism. Members of the public are encouraged to be vigilant and to take steps to prevent individuals and the members of organizations suspected of subversive activities and of incitement to the commission of terrorist acts from infiltrating these establishments.

To that end, in 2005 officials from the Procurator's Office held 20,862 meetings and briefings, conducted 398 television and 739 radio broadcasts and published 444 articles in newspapers and magazines.

In addition, effective preventive measures are regularly organized to ensure that no literature or other materials of a religious extremist nature make their way into educational, cultural and religious establishments.

Paragraph 4

2.5 Uzbekistan's law-enforcement agencies are taking the necessary steps to give effect to the recommendations contained in Security Council resolution 1624 (2005). Yet these same recommendations are being flouted by one of the Organization's own agencies — the Office of the United Nations High Commissioner for Refugees (UNHCR), as clearly demonstrated by its handing of

the issue of the extradition of persons who escaped into Kyrgyzstan after committing serious crimes during the events in Andijan.

The Office of the Procurator-General of Uzbekistan, acting in full compliance with the rules of international law, promptly submitted petitions for the extradition to Uzbekistan from Kyrgyzstan of 296 suspects, following which 29 persons directly implicated in terrorist acts were arrested and taken into custody in remand centre No. 5 of the Osh internal affairs administration. These included 11 members of the extremist movement Akromiilar, indicted for criminal offences by the Andijan court (no decision has been reached in the case, because of the events of 13 May 2005); 17 persons actively involved in terrorist acts, who had been moved out of the tent camp; and one person convicted of premeditated murder and sentenced to 14 years' imprisonment, who had been unlawfully released from Andijan prison.

The Kyrgyz authorities were furnished with evidence substantiating the charges brought against the persons whose extradition was being sought; the Deputy Procurator-General of Kyrgyzstan personally scrutinized the case materials and declared himself satisfied that the evidence was sufficiently ample, reliable and objective, justifying the adoption by the Office of the Procurator-General of Kyrgyzstan of a decision on 27 July 2005 on the extradition of 12 of the persons being held in remand centre No. 5. Their hand-over to Uzbekistan never took place, however, following a decision taken on 27 July 2005 by the Kyrgyz Security Council under pressure from UNHCR.

According to the Statute of UNHCR, the Office's competence does not extend to persons in respect of whom there are serious reasons for considering that they have committed criminal offences. That notwithstanding, of the total of 296 persons whose extradition is sought by Uzbekistan, 290 have been accorded the status of refugees by UNHCR, and 25 of those have been released from remand centre No. 5 and transferred to a third country.

At the same time, Kazakhstan has refused to extradite Lutfullo Shamsutdinov, to whom UNHCR has also extended international protection.

The legally unjustified actions taken by UNHCR in relation to the so-called "Uzbek refugees" are in flagrant contradiction to the very principles of the campaign against terrorism and have helped criminals to escape justice. In this context, at the fifty-sixth session of the UNHCR Executive Committee, held in Geneva from 3 to 7 October 2005, Uzbekistan officially stated that no international protection should be extended to the persons who fled to Kyrgyzstan; that the actions by UNHCR exceeded its mandate and that its activities had been politicized; that the principle of non-interference in the internal affairs of the sovereign States of Kyrgyzstan and Uzbekistan had been violated; that those States' rights and obligations, as enshrined in the Charter of the United Nations and the 1951 Convention on the Status of Refugees had been grossly violated; and that the provisions of United Nations Security Council resolutions 1269 (1999), 1373 (2001) and 1624 (2005), pursuant to which UNHCR was obliged to ensure that refugee status was not abused by terrorists, had been disregarded.

In our view, the situation described above demonstrates that the United Nations needs to set in place effective arrangements to ensure the proper exercise by the United Nations High Commissioner for Refugees of his mandate in legal matters and transparency in his activities, which will create normal conditions propitious to

solving the problems of the extradition of offenders and the conduct of other procedural actions relating to cross-border cooperation.

Since the Republic of Uzbekistan currently has no obligations pertaining to upholding the rights of refugees, as it has not acceded either to the 1951 United Nations Convention relating to the Status of Refugees or to its Protocol relating to the status of refugees, of 18 November 1966, the measures that it has taken to suppress terrorism, while at the same time upholding the constitutional rights of its citizens, are governed by corresponding laws and regulations which have been subject to expert appraisal by human rights institutions, including that of the Human Rights Commissioner of the Supreme Council of the Republic of Uzbekistan.

Uzbekistan's international obligations relating to observance of the standards of humanitarian law are based on the four conventions which it has ratified.